

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7881

BILL NUMBER: SB 436

NOTE PREPARED: Jan 15, 2003

BILL AMENDED:

SUBJECT: Punitive Damages.

FIRST AUTHOR: Sen. Clark

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: This bill provides that an attorney who represents the prevailing party in a case in which punitive damages are awarded is entitled to reasonable attorney's fees from the state's share of the punitive damages award. The bill specifies that an attorney who represents the prevailing party in a case involving punitive damages owes no duty to the state.

Effective Date: July 1, 2003.

Explanation of State Expenditures:

Explanation of State Revenues: This bill could reduce the amount of revenue the state receives from its share of a punitive damage award. Under current law, the state receives 75% of the punitive damages awarded in a civil case. This bill provides that an attorney who represents the prevailing party in which punitive damages are awarded would be entitled to receive reasonable attorney's fees from the state's portion of the award.

The state share of punitive damage awards are deposited in the Violent Crime Victims Compensation Fund.

Background on the Violent Crime Victims Compensation Fund: The Violent Crime Victims Compensation Fund is administered by the Indiana Criminal Justice Institute. The Fund assists victims or their dependents with medical expenses, funeral expenses, lost wages, and psychological counseling. The Compensation Fund also allows payment of expenses resulting from the collection of evidence after an alleged sexual assault without the burden of the expense falling on the shoulders of the victim. Counseling services can also be covered by the Fund if the counseling is physician-ordered. A maximum award of \$15,000 may be paid for

any one injury or death, including medical bills, up to \$3,000 for funeral and burial expenses, and up to \$1,000 or \$1,500 for counseling, lost wages, loss of support, reasonable child care services, attorney fees, and emergency shelter services. The Institute receives approximately 150 applications for grants from the Fund each month. Approximately 75% of these claims are approved. Money in the Fund comes from a variety of sources, including:

- (1) fees collected by the court clerk and fiscal officer of a city or town and distributed by the Auditor of State (approximately \$1.5 M annually),
- (2) revenue collected from restitution orders,
- (3) punitive damages (currently minimal),
- (4) various federal funds, and
- (3) appropriations made by the General Assembly (FY 2003 appropriation of \$2.5 M).

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Criminal Justice Institute.

Local Agencies Affected:

Information Sources: Criminal Justice Institute.

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